

# Disciplinary Actions

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## Disciplinary Actions Reported For May

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of April 2001.

### **Firm Expelled, Individual Sanctioned**

**Baxter, Banks & Smith, Ltd. (CRD #40771, St. Petersburg, Florida) and Francis Martin McDermott (CRD #1013320, Registered Principal, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from NASD membership. McDermott was barred from association with any NASD member in any supervisory, principal, or proprietary capacity, and barred from association with any NASD member in any capacity with the right to reapply for association with any NASD member firm after three years in a non-supervisory, principal, or proprietary capacity. In light of the financial status of McDermott, no monetary sanction has been imposed. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through its representatives, engaged in a scheme involving the use of high pressure, manipulative, and deceptive sales practices and misrepresentations and omissions of material facts in connection with the sale of common stock referred to as "deal stocks."

According to the findings, the firm employed a three-step process for soliciting customers, first using unregistered cold callers to prospect for potential customers. Then the firm's representatives would cold call the prospects and attempt to solicit their purchase of a known Nasdaq or New York Stock Exchange (NYSE) listed stock, and subsequently employ a "bait and switch" tactic by calling back the customers and soliciting their purchase of one of the deal stocks. The NASD found that the misrepresentations, price predictions, and omissions by the representatives involved information that was material to the investors' investment decision, and that certain representatives engaged in unauthorized trades when customers did not agree to purchase a deal stock and refused to execute customer orders to sell the stock. The NASD also found that the firm, acting through McDermott, failed to comply with Securities Exchange Act Rule 15c-9 concerning approval of accounts to trade in penny stocks and receipt of customer agreements to specific transactions, and the requirement to obtain suitability statements signed by the customers and approved by the firm. In addition, the NASD determined that the firm, acting through McDermott, failed to establish, maintain, and enforce a system to supervise the activities of its registered representatives that was reasonably designed to achieve compliance with applicable securities laws, rules, and regulations. **(NASD Case #C07010014)**

## **Firms Fined, Individuals Sanctioned**

**Commerzbank Capital Markets Corporation (CRD #21787, New York, New York) and Udo Braun (CRD #2897104, Registered Principal, Rye, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Braun was also suspended from association with any NASD member in any principal capacity for five business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Braun became actively engaged in the management of the firm's securities business prior to becoming registered with the NASD in any capacity.

Braun's suspension began April 16, 2001, and concluded at the close of business April 20, 2001. **(NASD Case #C05990038)**

**Millennium Securities Corp. (CRD #31695, New York, New York), Richard Allen Sitomer (CRD #1995999, Registered Principal, New York, New York) and Todd Michael Rome (CRD #2082803, Registered Principal, New York, New York)** submitted an Offer of Settlement in which the firm was ordered to file a Broker/Dealer Withdrawal Form to withdraw its membership from NASD no later than December 31, 2001, and that, if it fails to do so, not to oppose any action brought by the NASD Department of Enforcement seeking its expulsion. The firm was also required to disgorge \$1.1 million and ordered not to act as a participant in any underwriting or initial public offering (IPO) in any capacity until such time as it has withdrawn from membership in the NASD. Sitomer and Rome were each fined

\$100,000, suspended from association with any NASD member in any capacity for six months, and suspended from association with any NASD member in any principal capacity for two years. Sitomer was also ordered to guarantee \$225,000 of the firm's \$1.1 million disgorgement.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm participated as co-underwriter in an IPO of common stock and warrants. Sitomer and Rome sold a majority of the firm's allocation to public customers whose accounts they controlled, and repurchased all of the securities bought by the customers at the same prices after the opening of aftermarket trading and before becoming available to the investing public, thereby continuing the distribution. Following the repurchases, the firm upticked its quotations and significantly increased the prices of the securities despite relatively little trading activity, and used special selling methods to resell the securities to retail customers at prices substantially above those paid by the firm to reacquire them. The NASD also found that the firm, Sitomer, and Rome made markets in common stock and warrants, and bid for, purchased, or induced others to purchase those securities. The findings also stated that the respondents failed to disclose that they were conducting a distribution, the amount of securities distributed, the source of the securities, and that the firm's customers would be paying significantly more than what the firm had just paid for the same securities.

Sitomer's and Rome's suspensions in any capacity began

April 12, 2001, and will conclude at the close of business October 11, 2001. Sitomer's and Rome's suspensions in any principal capacity began April 12, 2001, and will conclude at the close of business April 11, 2003. **(NASD Case #CAF000005)**

## **Firms And Individuals Fined**

**BCR Capital Corporation (CRD #25330, Indianapolis, Indiana) and Rex M. Craig (CRD #1988160, Registered Principal, Tipton, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Craig, participated in an all-or-none offering of limited partnership interests and rendered false and misleading representations in the offering memorandum that investors would receive a refund of their subscription price together with interest earned therein if the terms of the contingency were not met. The findings also stated that the firm, acting through Craig, failed to properly escrow funds for sales from investors' funds. **(NASD Case #C8A010009)**

**NevWest Securities Corporation (CRD #46464, Henderson, Nevada) and Anthony Marks Mello, III (CRD #2781726, Registered Principal, Las Vegas, Nevada)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Mello, offered and

sold shares of common stock through a private “minimum-maximum” offering to public customers and presented to the customers a private placement memorandum that contained false and misleading statements. The findings also stated that the firm, acting through Mello, failed to deposit and retain customer funds in a properly established bank escrow account pending the occurrence of the contingency, failed to compute the amounts required to be deposited into the Special Reserve Bank Account for the Exclusive Benefit of Customers, and failed to timely deposit the amounts required to be deposited into the account. **(NASD Case #C02010005)**

**Tower Equities, Inc. (CRD #16195, Dayton, Ohio) and Kenneth Robert Wiseman (CRD #1345001, Registered Principal, Vandalia, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Wiseman, effected transactions in securities when it failed to maintain the minimum required net capital. The findings also stated that the firm, acting through Wiseman, failed to maintain an accurate general ledger. **(NASD Case #C8B010008)**

**Wolff Investment Group, Incorporated (CRD #21930, New York, New York) and Patricia Ann Schaen (CRD #412379, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, payable to a public

customer. Failure to pay the fine within 60 days from the date the AWC is issued will result in the suspension of Schaen from association with any NASD member in any capacity and the suspension of the firm’s membership until payment is complete. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Schaen, failed to establish procedures for the review and endorsement by a principal of all transactions that would prevent unauthorized trading. **(NASD Case #C10010041)**

#### **Firms Fined**

**Baird, Patrick & Co., Inc. (CRD #1149, New York, New York)** submitted an Offer of Settlement in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to accept Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) eligible transactions within 20 minutes after execution and reported Consolidated Quotation Service transactions without the “.T” modifier. The findings also stated that the firm reported the incorrect volume for a Nasdaq National Market (NNM) transaction and failed to establish, maintain, and enforce adequate written supervisory procedures to address all areas of the firm’s trading and market making business in that the firm’s procedures failed to address ACT rule compliance, limit order protection, Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>) activity, locked and crossed markets, short sale rule compliance, the Order Audit Trail System (OATS<sup>SM</sup>) clock synchronization, and registration

of equity traders and supervisors. **(NASD Case #C8A000050)**

**Broadmark Capital Corporation (CRD #39056, Seattle, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to the ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity; incorrectly reported to ACT transactions as agency crosses when corresponding order tickets reflected the firm acting as principal; failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity; and failed to accept in ACT transactions in eligible securities within 20 minutes of the execution time. The findings also stated that the firm failed to consistently record or maintain all relevant terms and conditions on the memoranda for orders in that there was no indication of “not held” to denote working order status. The NASD also found that the firm incorrectly disclosed agency capacity on its customer confirmations for transactions when corresponding order tickets reflected the firm acting as principal. Furthermore, the NASD found that the firm used a non-compliant, non-synchronized, mechanical time stamp machine that failed to provide the “seconds” field to document times of receipt and execution. Moreover, the firm’s supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations

concerning trading and market place rules. **(NASD Case #C3B010004)**

**Dean Witter Reynolds, Inc. (CRD #7556, New York, New York)**

submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures relating to the U.S. Securities and Exchange Commission (SEC) and NASD firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The NASD found that the firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. Furthermore, the NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning the SEC and NASD firm quote rules. **(NASD Case #CMS010034)**

**J.B. Oxford & Company (CRD #14343, Beverly Hills, California)**

submitted a Letter of Acceptance, Waiver, and Consent in which it was censured, fined \$76,500, required to pay \$12,002.96, plus interest, in restitution to customers, and required to revise its written supervisory procedures relating to the SEC and NASD firm quote rules, the Order Handling Rules, trade reporting, ACT reporting, registration, locked and crossed markets, anti-competitive practices, books and records, short sale affirmative determination requirements and OATS. Without admitting or denying the allegations, the firm

consented to the described sanctions and to the entry of findings that an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm, a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in the Nasdaq stock market that caused a locked or crossed market condition to occur in each instance, and failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. Furthermore, the NASD found that the firm failed to execute an order fully and promptly, and failed to display immediately customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer for each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. The NASD also determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning the Order Handling Rules, trade reporting, ACT

reporting, registration, locked and crossed markets, anti-competitive practices, SEC and NASD firm quote rules, short sale affirmative determination, and OATS. **(NASD Case #CMS010038)**

**Jefferson Pilot Securities Corp. f.k.a. Chubb Securities (CRD #3870, Atlanta, Georgia)**

submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that during the course of its branch office audits and subsequent reviews of a registered representative's activities, the firm discovered a mutual fund switching by the representative. The NASD determined that, although the firm addressed the mutual fund switching with the representative, it failed to adequately address this issue in a timely manner and, therefore, failed to supervise, establish, and maintain a supervisory system that would ensure compliance with its suitability obligations. **(NASD Case #C07010011)**

**Jesup & Lamont Securities Corp. (CRD #17833, New York, New York)**

submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$13,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report short sale transactions to the ACT with a short sale modifier and failed to record or maintain all relevant terms and conditions on the memoranda for block order transactions in that there were no indications of "not held" to denote working order status. The findings also stated that the firm failed to show the correct time of execution

on the memoranda of transactions reported to ACT. The NASD also found that customer confirmations failed to properly disclose the reported price to ACT and the difference between the reported price and the price to the customer, and incorrectly disclosed agency capacity on its customer confirmations for transactions when corresponding order tickets and account statements reflected the firm acting as principal. Furthermore, the NASD found that the firm failed to maintain a written record of its compliance with affirmative determination requirements in connection with customer-related short sales. Moreover, the NASD found that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning trading and marketplace rules. **(NASD Case #C3B010005)**

**Merrion Group, LLC (CRD #30145, Westfield, New Jersey)** submitted an Offer of Settlement in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while failing to maintain its minimum required net capital. **(NASD Case #C9B000013)**

**Morgan Stanley & Co., Incorporated (CRD #8209, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in Nasdaq securities in its

published quotation, when each such order was at a price that would have improved the firm's bid or offer for each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. **(NASD Case #CMS010035)**

**Pennsylvania Merchant Group, Ltd. (CRD #18533, West Conshohocken, Pennsylvania)** submitted an Offer of Settlement in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce supervisory procedures for its retail sales activity reasonably designed to achieve compliance with applicable securities laws and regulations. **(NASD Case #C9A000007)**

**Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to pay \$1,137.50, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market; failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions; and to ascertain the best inter-dealer market by failing to execute customer market orders fully and promptly. The findings also stated that the firm failed to

immediately display customer limit orders in Nasdaq securities in its published quotation, when each such order was at a price that would improve the firm's bid or offer in each security, or at a price equal to its public quote when such quote was priced equal to the firm's bid or offer and the national best bid or offer for each such security and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. **(NASD Case #CMS010028)**

**Robb Peck McCooey Clearing Corporation (CRD #7432, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT, last sale reports of transactions in an NNM security. **(NASD Case #CMS010037)**

**Seaboard Securities, Inc. (CRD #755, Florham Park, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce adequate written supervisory procedures regarding options transactions and the review of branch office activities. The findings also stated that the firm failed to designate a supervisory principal for trading/market making, options, continuing education, and government securities. In addition, the NASD determined that, in connection

with an IPO underwriting, the firm accepted customer checks dated prior to the effective date of the offering, and failed to update its quote within 30 seconds in instances when the customer's limit order was priced better than the firm's prevailing quotation. Furthermore, the NASD found that the firm reported short sale transactions to ACT without using the short sale modifier; failed to execute short sale transactions on a down bid at a price that was not 1/16 above the current inside bid; and failed to maintain evidence of having made an affirmative determination ensuring that the shares could be obtained for a short sale. Moreover, the NASD found that the firm failed to identify on order tickets whether the transactions were long or short, and failed to file, or to file in a timely manner, customer complaints it received. **(NASD Case #C9B010026)**

### **Individuals Barred Or Suspended**

**David Stephen Adams (CRD #1450961, Registered Representative, Bloomington, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Adams endorsed a public customer's check for \$7,318.06, and used the funds either for his own use and benefit or for some purpose other than the benefit of the customer, without the knowledge or consent of the customer. Adams also failed to respond to NASD requests for information. **(NASD Case #C8A000057)**

**Jonathan Elia Sasoon Bekhor (CRD #1910534, Registered Principal, Beverly Hills, California)** submitted an Offer of Settlement in which he was fined

\$10,000, suspended from association with any NASD member in any capacity for 60 business days, and ordered to requalify by exam as a general securities principal within 60 days from the day the order accepting the Offer was issued by the NASD. If Bekhor fails to requalify, he will be suspended from acting in such capacity until the exam is successfully completed. The fine must be paid before reassociating with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bekhor consented to the described sanctions and to the entry of findings that a member firm, acting through Bekhor, failed to have a qualified municipal securities principal engaged in the management, direction, or supervision of an underwriting, and allowed an unregistered person to act in that capacity; failed to designate a municipal securities principal responsible for its supervision; and failed to have the trade tickets for the underwriting approved by a municipal securities principal. The findings also stated that a member firm, acting through Bekhor, violated the terms of an NASD Restriction Agreement and acted as sole underwriter in a municipal securities offering. The NASD also found that Bekhor failed to send to the Municipal Securities Rulemaking Board (MSRB) copies of a completed MSRB Form G-36, failed to pay an underwriting fee to the MSRB, and failed to comply with MSRB bookkeeping requirements.

Bekhor's suspension began April 16, 2001, and will conclude at the close of business July 10, 2001. **(NASD Case #C10990037)**

**Ricardo Fallesgon Brown (CRD #845315, Registered Representative, Newport News,**

**Virginia)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Brown received insurance disbursement checks totaling \$8,510.82 sent by his member firm for delivery to insurance customers, forged the endorsements on the checks, and deposited them into his personal bank account. In addition, Brown completed and submitted to his member firm an unauthorized application for a \$12,000 withdrawal on behalf of a public customer, received a \$12,000 disbursement check from his member firm, forged the customer's endorsement on the check, and deposited it into his personal bank account. Brown also submitted loan applications on behalf of public customers without their authorization, received checks totaling \$10,500, forged the endorsements of the customers on the disbursement checks, and deposited them into his personal bank account. Furthermore, Brown failed to respond to NASD requests for information. **(NASD Case #C07000064)**

**David Wainwright Buys, Sr. (CRD #1965954, Registered Representative, Montville, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$66,993.23 in restitution to a trust account and/or its beneficiaries. Proof of restitution, with interest, shall be a prerequisite before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Buys consented to the described sanctions and to the entry of findings that he converted

\$66,993.32 from a trust account in which he served as a trustee and used the funds for his own use and benefit, without the beneficiaries' knowledge or consent. **(NASD Case #C9B010023)**

**Nicholas Michael Calapa (CRD #1245429, Registered Representative, Stamford, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. In light of the financial status of Calapa, no monetary sanctions were imposed. Without admitting or denying the allegations, Calapa consented to the described sanction and to the entry of findings that he recommended unsuitable trading in the account of a public customer. Calapa inappropriately recommended that the customer continue use margin loans in order to engage in a short-term trading strategy involving highly concentrated positions in particular securities, causing the account to suffer losses in excess of \$88,000. The findings also stated that Calapa acted in reckless disregard of his client's interest when he disregarded the impact of the short-term trading, the inappropriate use of margin in the account, the risks that the account incurred from this activity, and the high concentration levels of certain securities in the account.

Calapa's suspension began April 16, 2001, and will conclude at the close of business October 15, 2001. **(NASD Case #C11010010)**

**Daniel Clinton Carlson (CRD #1497477, Registered Representative, Dassel, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with

any NASD member in any capacity for six months. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Carlson consented to the described sanctions and to the entry of findings that he failed to give prior written notice to his member firm and receive written approval from the firm prior to participating in private securities transactions.

Carlson's suspension began May 7, 2001, and will conclude at the close of business November 6, 2001. **(NASD Case #C04010014)**

**Paul Edward Carney (CRD #1943974, Registered Representative, Vernon Hills, Illinois)** was barred from association with any NASD member in any capacity and ordered to pay \$1,700,000, plus interest, in restitution to a public customer. The sanctions were based on findings that Carney effected unprofitable trades in the accounts of a public customer and prepared and delivered false profit and loss statements to the customer in an attempt to conceal losses incurred in the accounts. Moreover, Carney continued to effect trades in the customer's accounts after being instructed by the customer to stop. Carney also failed to answer all questions asked of him during an NASD on-the-record interview. **(NASD Case #C8A000024)**

**Robert Scott Cash (CRD #2063885, Registered Representative, St. Petersburg Beach, Florida)** was fined \$20,000 and suspended from association with any NASD member in any capacity for 30 business days for engaging in outside business activities, and

suspended from association with any NASD member in any capacity for 60 days for making unsuitable recommendations. The sanctions were based on findings that Cash recommended that a public customer purchase a single premium deferred annuity outside of the scope of his employment with his member firm and failed to provide prior written notice to, or receive written approval from, his member firm before such recommendation. Cash also recommended to a public customer the purchase of mutual funds and then changed the customer's account from a cash account to a margin account, without the customer's knowledge or consent, and without ever having discussed the use of margin with the customer, and engaged in a series of transactions in the customer's account that were unsuitable for the customer based upon the customer's investment objective, financial situation, and needs.

Cash's suspension began April 16, 2001, and will conclude at the close of business July 24, 2001. **(NASD Case #C07000075)**

**William E. Cherry, Jr. (CRD #3237150, Associated Person, West Hempstead, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cherry consented to the described sanction and to the entry of findings that he received the proctor's report from the NASD's Certification Testing Center that stated that Cherry had failed the NASD Series 63, Uniform Securities Agent State Law exam, and altered the proctor's report to reflect that he had passed the

exam. Cherry presented the altered report to his member firm, misrepresenting that he had passed the exam. **(NASD Case #C10010047)**

**James Joseph Corcoran (CRD #2328082, Registered Principal, Patchogue, New York)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one month. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Corcoran consented to the described sanctions and to the entry of findings that he offered and sold securities to public customers by means of misrepresentations of material information and omissions to disclose material information. The findings also stated that Corcoran made predictions of the future price of a speculative security in connection with the offer and sale of that security to a public customer.

Corcoran's suspension will begin the earlier of 30 days after he enters a plea of guilty or nolo contendere or is convicted in a criminal case or December 31, 2001. **(NASD Case #C3A000028)**

**Shawn Cunningham (CRD #4031341, Registered Representative, Raleigh, North Carolina)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Cunningham provided false responses on his Form U-4. Cunningham also failed to respond to NASD requests for information. **(NASD Case #C07000080)**

**Richard D'Ambola (CRD #2816480, Registered Representative, Landing, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, suspended from association with any NASD member in any capacity for six months, and required to disgorge \$13,460, plus interest, to customers. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Proof of payment of disgorgement, with interest, shall be a prerequisite before reassociating with a member firm or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, D'Ambola consented to the described sanctions and to the entry of findings that he effected offers and sales of securities to public customers outside of the normal course or scope of his association with his member firm and failed to provide his member firm prior written notification of such offers and sales of securities.

D'Ambola's suspension began May 7, 2001, and will conclude at the close of business November 6, 2001. **(NASD Case #C9B010020)**

**Leigh Farrington Fiske (CRD #2330320, Registered Representative, Monterey, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Fiske failed to respond to NASD requests for information. **(NASD Case #C01000024)**

**Pasquale Forti (CRD #2685740, Registered Principal, Hazlet, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000,

suspended from association with any NASD member in any capacity for 30 days, ordered to pay \$5,000 in restitution to a public customer, and ordered to attend a continuing education course with respect to the duties of a general securities representative. The fine payment and satisfactory proof of payment of restitution, with interest, must be provided before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Forti consented to the described sanctions and to the entry of findings that he failed to execute a public customer's request to sell shares of stock and warrants. The findings also stated that Forti made material misrepresentations to another public customer that resulted in the customer purchasing shares of stock and then delayed his request to sell the stock.

Forti's suspension began April 16, 2001, and will conclude at the close of business May 15, 2001. **(NASD Case #C10010039)**

**Dennis Lester Freeman (CRD #213683, Registered Representative, Storm Lake, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Freeman consented to the described sanctions and to the entry of findings that he negotiated and entered into a settlement agreement with public customers to pay them \$25,000 to resolve their verbal complaints about the decline in value of their accounts, without the knowledge or consent of his member firm.



Freeman's suspension began April 16, 2001, and concluded at the close of business April 27, 2001. **(NASD Case #C04010004)**

**Gary Dale Fresk (CRD #1075245, Registered Representative, Bellevue, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,500 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Fresk consented to the described sanctions and to the entry of findings that he recommended the sale of \$342,525 worth of mutual funds to a public customer without having reasonable grounds for believing that the recommendation was suitable for the customer. The findings also stated that Fresk exercised discretionary power in the customer's account, without the customer's prior written authorization or without the written acceptance of the account as discretionary by his member firm.

Fresk's suspension began April 16, 2001, and concluded at the close of business April 25, 2001. **(NASD Case #C3B010003)**

**Harold Bailey Gallison, Jr. (CRD #1040211, Registered Principal, Las Vegas, Nevada)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gallison consented to the described sanction and to the entry of findings that he failed to abide by an NASD Order that prohibited him from associating with any NASD member in a principal or supervisory capacity. **(NASD Case #C02000027)**

**Jerry Lee Getter (CRD #1080528, Registered Representative, Brookville, Ohio)** submitted a

Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Getter consented to the described sanction and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions, his role therein, and to receive written permission from his firm to engage in the transactions. **(NASD Case #C8B010007)**

**Steven Douglas Goodman (CRD #1510905, Registered Principal, Allison Park, Pennsylvania)** was fined \$75,000 and barred from association with any NASD member in any capacity. The SEC affirmed the sanctions following appeal of a November 1999 National Adjudicatory Council (NAC) decision. The sanctions were based on findings that Goodman used high-pressure tactics to induce sales, and increased customer losses by dissuading them from selling, and failed to execute sell orders. **(NASD Case #C9B960013)**

**James Alan Gorab (CRD #2910909, Registered Representative, Hoboken, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$20,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gorab consented to the described sanctions and to the entry of findings that he submitted a false transcript to a member firm

regarding his educational background and willfully failed to disclose information on his Form U-4.

Gorab's suspension began April 16, 2001, and will conclude at the close of business April 15, 2003. **(NASD Case #C9B010013)**

**Donald Albert Gorneau (CRD #1477882, Registered Representative, Winslow, Maine)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gorneau consented to the described sanction and to the entry of findings that he received over \$60,000 from public customers to invest in variable annuities and traditional life insurance products, and, instead, converted the funds to his own use and benefit. **(NASD Case #C11010012)**

**Rocco Nick Graziosi (CRD #2590696, Registered Representative, Glen Cove, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Graziosi consented to the described sanctions and to the entry of findings that he arranged to have another registered representative sign new account forms falsely representing that the representative was the customers' account executive, failed to sign the forms as the customers' account executive and, thereby caused his firm to maintain inaccurate books and records. Furthermore, the NASD determined that Graziosi knowingly and improperly used the registered representative's executive number

for entering transactions in the customers' account, thereby causing his member firm to maintain inaccurate books and records.

Graziosi's suspension began April 16, 2001, and will conclude July 15, 2001. **(NASD Case #C9B010015)**

**Suzanne Marie Greany (CRD #2488261, Registered Representative, Wales, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Greany consented to the described sanction and to the entry of findings that she failed to respond to NASD requests for information. **(NASD Case #C11010011)**

**John Stephen Grosenheider (CRD #2072154, Registered Representative, Austin, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Grosenheider failed to update his Form U-4. Grosenheider also failed to respond to NASD requests for information. **(NASD Case #C06000022)**

**Mark Robert Harris (CRD #2273482, Registered Representative, Ft. Lauderdale, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 90 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Harris consented to the described

sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and to receive written approval from, his member firm prior to engaging in such activities.

Harris' suspension began May 7, 2001, and will conclude August 4, 2001. **(NASD Case #C07010020)**

**Barbara Jennings (CRD #3168111, Registered Representative, Plainsboro, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jennings consented to the described sanctions and to the entry of findings that she failed to update her Form U-4.

Jennings' suspension began April 16, 2001, and will conclude at the close of business May 15, 2001. **(NASD Case #C9B010016)**

**Todd Joseph Kamler (CRD #2720579, Registered Representative, Kearney, Nebraska)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 60 days. In light of the financial status of Kamler, no monetary sanction has been imposed. Without admitting or denying the allegations, Kamler consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member

firm prior to engaging in such activities.

Kamler's suspension began May 7, 2001, and will conclude at the close of business July 5, 2001. **(NASD Case #C04010007)**

**Dennis Lee Knuth (CRD #1769376, Registered Representative, Mosinee, Wisconsin)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Knuth consented to the described sanction and to the entry of findings that he received checks totaling \$33,096 from a public customer intended for the purchase of a life insurance product and converted the funds to his own use and benefit without the knowledge or consent of the customer. The findings also stated that Knuth affixed the signatures of public customers to an insurance policy withdrawal request, and without their knowledge or consent, affixed their signatures to an \$1,800 insurance proceeds check and converted the funds to his own use and benefit. **(NASD Case #C04010006)**

**Kenneth Thomas Lambright (CRD #1124567, Registered Representative, Baltimore, Maryland)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 20 business days. In light of the financial status of Lambright, no monetary sanctions were imposed. Without admitting or denying the allegations, Lambright consented to the described sanction and to the entry of findings that he guaranteed a public customer against loss. The findings also stated that Lambright failed to respond to NASD requests for information.

Lambright's suspension began April 16, 2001, and concluded at the close of business May 11, 2001. **(NASD Case #C9A000033)**

**Eric Peter Lesak (CRD #2390075, Registered Representative, Wantagh, New York)** was censured, fined \$15,000, and barred from association with any NASD member in any capacity. The fine must be paid before reassociating with any NASD member. The sanctions were based on findings that Lesak effected unauthorized transactions in the account of a corporate customer without the knowledge, authorization, or consent of the company's president. The findings also stated that Lesak failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C10000087)**

**Michael Emmanuel Leventis (CRD #2269194, Registered Principal, Delray Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$40,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Leventis consented to the described sanctions and to the entry of findings that he made material misrepresentations of fact to the NASD staff during its investigation of a customer complaint.

Leventis' suspension began May 7, 2001, and will conclude at the close of business May 18, 2001. **(NASD Case #C07010015)**

**Stacey Lein Lew (CRD #3215074, Registered Representative, Framingham, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from

association with any NASD member in any capacity for one year. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Lew consented to the described sanctions and to the entry of findings that she forged a customer's signature on a Change of Financial Advisor Form without the customer's knowledge or consent. The findings also stated that Lew submitted the form to an investment company, thereby becoming the registered representative of record with respect to the customer's mutual fund holdings.

Lew's suspension began April 16, 2001, and will conclude at the close of business April 15, 2002. **(NASD Case #C11010008)**

**Jang Soo Lim (CRD #2881926, Registered Representative, Forest Hills, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lim consented to the described sanction and to the entry of findings that he arranged for \$15,000 in loans to be issued against the life insurance policy of a public customer without the customer's knowledge, authorization, or consent and converted and/or misused the loan proceeds. The findings also stated that Lim forged the customer's signature on checks issued by the insurance company to the customer in connection with the loan. In addition, the NASD found that Lim failed to respond to NASD requests for information. **(NASD Case #C10010019)**

**Keith Allen Long (CRD #1049701, Registered Representative, Selinsgrove, Pennsylvania)** submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for one month, and required to disgorge \$1,498, plus interest, in commissions earned to public customers. The fine payment and satisfactory proof of payment of disgorgements, plus interest, must be provided before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Long consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to provide his member firm with prior written notice.

Long's suspension began May 7, 2001, and will conclude at the close of business June 6, 2001. **(NASD Case #C9A000037)**

**Christopher Patrick Lordi (CRD #2518281, Registered Representative, Deerfield Beach, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lordi failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C07000023)**

**Paul Lovrovich (CRD #2575457, Registered Principal, Avenel, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lovrovich consented to the described sanction and to the entry of findings that he

attempted to conceal from his member firm that he had canceled two trades made for his personal account by canceling and re-billing the trades to the account of a relative and then canceling and re-billing the trades to his member firm's error account. According to the findings, at the time Lovrovich canceled the trades, the stock prices of both securities had declined, thereby allowing him to avoid having to pay for the unfavorable trades. The NASD found that the firm paid for the costs of these transactions, incurring a loss of approximately \$1,100. Lovrovich also provided false and misleading information to the NASD during an on-the-record interview. **(NASD Case #C9B010021)**

**Gregory Paul Maggipinto (CRD #1042789, Registered Representative, San Jose, California)** was fined \$107,734 and barred from association with any NASD member in any capacity. The fine must be paid before any application for reentry into the securities industry will be considered. The sanctions were based on findings that Maggipinto executed unauthorized transactions in a deceased customer's account and fraudulently obtained discretionary trading authority from the customer's survivors by representing that he had been given power of attorney over the account. Maggipinto also failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C01000026)**

**Arnold Lopez Magpantay (CRD #2812805, Registered Representative, Sacramento, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings

that Magpantay willfully provided false responses on his Form U-4. **(NASD Case #C01000015)**

**George Honorato Malagon, Jr. (CRD #2088064, Registered Principal, Fresh Meadows, New York)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Malagon consented to the described sanctions and to the entry of findings that he failed to disclose material facts to a public customer that a reasonably prudent customer would have wanted disclosed in making investment decisions and that Malagon had a duty to disclose. The findings also stated that Malagon executed unauthorized trades in the account of a public customer without discretionary trading authority.

Malagon's suspension began April 16, 2001, and concluded at the close of business May 4, 2001. **(NASD Case #CAF000046)**

**Frank Edward Mandrell (CRD #3100112, Registered Representative, West Palm Beach, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Mandrell failed to respond to NASD requests for information. **(NASD Case #C07000078)**

**Andrew Dwayne Miller (CRD #2002981, Registered Representative, Canon City, Colorado)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Miller consented to the described sanction and to the

entry of findings that he obtained funds aggregating \$174,820.93 intended for investment and converted the funds to his own use and benefit. **(NASD Case #C3A010011)**

**Jeffrey Scott Miller (CRD #2375756, Registered Representative, Bellmore, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he posted communications on an electronic bulletin board concerning customer securities without notifying the customers and without identifying himself as a registered representative. The findings also stated that Miller failed to inform the customers of a potential conflict of interest, and failed to observe high standards of commercial honor, and just and equitable principles of trade. Furthermore, the NASD found that Miller posted a communication on an electronic bulletin board that contained untrue, unwarranted, and misleading statements, made false price predictions without a reasonable basis, and failed to provide the investor with a sound basis for making an investment decision.

Miller's suspension began May 7, 2001, and concluded at the close of business May 11, 2001. **(NASD Case #CMS010031)**

**Daniel Lewis Minor (CRD #1075162, Registered Representative, St. Joseph, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with

any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Minor consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Minor's suspension began April 16, 2001, and will conclude at the close of business May 15, 2001. **(NASD Case #C04010010)**

**Gregory Vincent Morgan (CRD #2334270, Registered Representative, Baldwin, New York)** was fined \$50,000, suspended from association with any NASD member in any capacity for two years, and ordered to pay \$69,230, plus interest, in restitution to a public customer for effecting unauthorized securities transactions. In addition, Morgan was barred from association with any NASD member in any capacity for making unsuitable recommendations and engaging in excessive trading, and failing to respond to NASD requests for information. The sanctions were based on findings that Morgan effected unauthorized securities transactions in the account of a public customer. Morgan also made unsuitable recommendations, including recommendations to trade excessively, to a public customer. In addition, Morgan failed to respond to NASD requests for information.

Morgan's bar became effective March 20, 2001. **(NASD Case #C9B000024)**

**Jay Lynn Murphy (CRD #343227, Registered Representative, Van Nuys, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without

admitting or denying the allegations, Murphy consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and to receive written approval from, his member firm prior to engaging in such activities. **(NASD Case #C02010006)**

**Rachel Ellen Neufeld (CRD #2699457, Registered Representative, Collingswood, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$40,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before reassociating with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Neufeld consented to the described sanctions and to the entry of findings that she participated in private securities transactions and failed to provide her member firm with written notice of the proposed transactions, her proposed role therein, and whether she had received, or might receive, selling compensation in connection with the transactions. The findings also stated that Neufeld engaged in business activity for compensation outside the scope of employment with her member firm and failed to provide her member firm with prompt written notice.

Neufeld's suspension began May 7, 2001, and will conclude at the close of business May 6, 2003. **(NASD Case #C9A010008)**

**Becky Maria Nunez (CRD #2313048, Registered Representative, Brooklyn, New York)** was barred from association with any NASD member in any

capacity. The sanction was based on findings that Nunez executed unauthorized transactions in the account of a public customer and failed to respond to NASD requests for information. **(NASD Case #C10000174)**

**Richard Bruce O'Callaghan (CRD #1707271, Registered Representative, Freehold, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$27,500 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, O'Callaghan consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on a Form U-4, and provided false and misleading testimony to the NASD during an on-the-record interview.

O'Callaghan's suspension began May 7, 2001, and will conclude at the close of business May 6, 2002. **(NASD Case #C9B010024)**

**Peter David Ragofsky (CRD #2066034, Registered Representative, Brooklyn, New York)** was barred from association with any NASD member in any capacity and ordered to pay \$15,956, plus interest, in restitution to public customers. The sanctions were based on findings that Ragofsky effected unauthorized transactions in the accounts of public customers. **(NASD Case C10000086)**

**Juanita Rios (CRD #4175638, Associated Person, Wilmington, Delaware)** was fined \$10,000 and suspended from association with any NASD member in any capacity

for 30 business days for providing a false response on her Form U-4 and barred from association with any NASD member in any capacity for failing to respond to NASD requests for information. The fine must be paid before reassociating with a member firm. The sanctions were based on findings that Rios failed to respond to NASD requests for information and provided a false response on her Form U-4 application for registration.

Rios' bar became effective March 29, 2001. **(NASD Case #C9A000041)**

**Martin Lee Rising (CRD #1011762, Registered Representative, Paradise Valley, Arizona)** submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one month. Rising is also required to demonstrate to the NASD, not more than 90 days after the issuance of the Order of Acceptance of the Offer of Settlement, that an offer of rescission has been made to investors in an offering of securities. Without admitting or denying the allegations, Rising consented to the described sanctions and to the entry of findings that in connection with a private placement, he failed to return investor funds when the minimum sales contingency was not satisfied, and continued to solicit and accept purchases of the securities in a private placement after the minimum sales contingency was not satisfied and the funds received from investors were in the possession and control of the firm prior to the satisfaction of the minimum sales contingency. The findings also stated that Rising distributed offering materials to prospective investors

that contained material misrepresentations.

Rising's suspension will begin June 1, 2001, and will conclude June 30, 2001. **(NASD Case #C3A000012)**

**Samuel Michael Rodio, II (CRD #2919945, Registered Representative, Katy, Texas)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rodio consented to the described sanction and to the entry of findings that funds in the amount of \$5,312.98 were withdrawn from the account of public customers without their knowledge, authorization, or consent, and a check in the same amount and in the name of the customers was issued to and received by Rodio. The NASD determined that Rodio failed to deliver the check, and, instead, endorsed it and deposited the funds into his personal bank account, without the customers' knowledge, authorization, or consent. Rodio also failed to respond completely to NASD requests for information and documentation. **(NASD Case #C06000039)**

**Andrew Calvin Rothstein (CRD #1187031, Registered Representative, Jackson, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Rothstein consented to the described sanction and to the entry of findings that he arranged for a \$3,000 check to be issued from a public customer's annuity account, endorsed the check, and converted the funds for

his own use and benefit, without the customer's knowledge or consent. Rothstein also failed to respond to NASD requests for information. **(NASD Case #C9B010014)**

**Brad Lee Running (CRD #1490783, Registered Representative, Owatonna, Minnesota)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Running consented to the described sanctions and to the entry of findings that he negotiated and entered into a settlement agreement with public customers to pay them \$6,317.27 to resolve their verbal complaint about the decline in value of their account, without the knowledge or consent of his member firms.

Running's suspension began April 16, 2001, and concluded at the close of business April 27, 2001. **(NASD Case #C04010009)**

**Julian Gaspar Russo (CRD #407793, Registered Representative, East Islip, New York)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Russo consented to the described sanction and to the entry of findings that he received \$13,000 from public customers for investment purposes but failed to invest the funds, thereby, misusing the customers' funds.

Russo's suspension began April 16, 2001, and will conclude at the close of business April 15, 2003. **(NASD Case #C05000036)**

**Robert Joseph Sampson (CRD #1051109, Registered Representative, Rochdale, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sampson consented to the described sanction and to the entry of findings that he misappropriated at least \$87,000 in cash proceeds from the accounts of public customers and improperly converted the proceeds for his own use and benefit. **(NASD Case #C11010009)**

**Daniel Carmine Santoro (CRD #2211387, Registered Representative, Douglaston, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$2,422.05 in restitution to his former member firm. Without admitting or denying the allegations, Santoro consented to the described sanctions and to the entry of findings that he converted \$25,000 from a public customer by obtaining a check payable to the customer and depositing it in his personal checking account without the customer's knowledge or authorization. The findings stated that Santoro forged the required signature on the check so that he could deposit it into his personal bank account. The NASD also found that Santoro caused credit cards to be opened under the names and social security numbers of public customers, directed the bills be sent to his home address, and named himself as the secondary card holder without their knowledge or authorization. **(NASD Case #C10010043)**

**Gerard Vincent Sherlock, Sr. (CRD #2629144, Registered Representative, Cherry Hill, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sherlock consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to, or approval from, his member firms.

Sherlock's suspension began May 7, 2001, and will conclude at the close of business August 6, 2001. **(NASD Case #C3A010004)**

**Paul Carl Sildatke (CRD #2910292, Registered Principal, Morris Plains, New Jersey)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sildatke failed to respond to NASD requests for information. **(NASD Case #C9B000028)**

**Geiger Merrill Smith, Jr. (CRD #427616, Registered Representative, Newtown Square, Pennsylvania)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he sold a variable universal life insurance policy to a public customer, and induced

another registered representative to be the agent on record for the sale and agreed to share the commissions because Smith's earnings were subject to a garnishment order. The findings also stated that the policy never took effect and Smith induced a registered representative at another firm to place the policy through that agent's firm and to remit the bulk of the commission to Smith.

Smith's suspension began May 7, 2001, and concluded at the close of business May 11, 2001. **(NASD Case #C9A010005)**

**Daniel Christopher Stearns (CRD #1888242, Registered Representative, Colonie, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,000, of which \$12,000 represents disgorgement of commissions, and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Stearns consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Stearns' suspension will begin June 1, 2001, and will conclude at the close of business July 31, 2001. **(NASD Case #C11010013)**

**Christopher Lynn Thomas (CRD #3152007, Registered Representative, Pembroke Pines, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that he failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C07000077)**

**Vincent Bernard Tolbert (CRD #2343655, Registered Representative, Killeen, Texas)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Tolbert received \$260 in cash from a public customer representing premium payments for a homeowner's insurance policy and converted the funds to his own use and benefit, without the authorization, knowledge, or consent of the customer. Tolbert also failed to respond to NASD requests for information. **(NASD Case #C06000034)**

**Alto Lee Tompkins, Jr. (CRD #2882915, Registered Representative, Chicago, Illinois)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Tompkins provided false responses on his Form U-4. **(NASD Case #C8A000065)**

**Robert Frank Toth (CRD #2320179, Registered Principal, Rosedale, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Toth failed to respond to NASD requests for testimony and documents. **(NASD Case #CAF000014)**

**Juan Carlos Vega (CRD #2150200, Registered Representative, Miami, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to cooperate with the NASD in any related investigation and hearing. Without admitting or denying the allegations, Vega consented to the described sanctions and to the

entry of findings that he rendered substantial assistance to his member firm and its CEO by executing orders and carrying out all basic trading functions relating to the trading activities of the common stock of a company that were designed to deceive or defraud public customers in spite of a general awareness that his role was improper.

Vega's suspension began April 16, 2001, and will conclude at the close of business June 14, 2001. **(NASD Case #CAF010006)**

**Stephen Morris Wilkinson (CRD #718506, Registered Representative, Pace, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Wilkinson instructed a public customer to complete checks totaling \$23,345.31 to be used to purchase shares in mutual funds. Instead of arranging an electronic transfer of the customer's funds to the mutual funds, Wilkinson filled in his own name as payee on the checks, endorsed them, and deposited them into his own bank account. Wilkinson also failed to respond to an NASD request for information. **(NASD Case #C07000074)**

**Craig Henry Woodward (CRD #1955883, Registered Representative, West Palm Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for six months. In light of Woodward's financial status, no monetary sanction was imposed. Without admitting or denying the allegations, Woodward consented to the described sanction and to the entry of findings that he issued press releases on the Internet in the name of a corporation in,

which he was the sole owner, that contained misrepresentations regarding the corporation. The findings also stated that Woodward issued a press release on the Internet regarding another company and failed to disclose that he owned shares of the company.

Woodward's suspension began April 16, 2001, and will conclude at the close of business October 15, 2001. **(NASD Case #C07990068)**

### Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of April 13, 2001. The findings and sanctions imposed in the decisions may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

**Mark Joseph Chavez (CRD #2411119, Registered Principal, Boca Raton, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Chavez failed to respond to NASD requests for information.

Chavez has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C07000084)**

**Luther Allen Hanson (CRD #1956960, Registered Representative, Charleston, West Virginia)** was suspended from association with any NASD member in any capacity for 90 days, required to requalify as a general securities representative within six months, and directed to disgorge \$79,105.62 in commissions to public customers.



If it is proven that any customers have recouped their investments, the commissions relating to such customers shall be converted to a fine to be paid to the NASD. The sanctions were based on findings that Hanson participated in the offer and sale of securities without prior written notice to, or approval from, his member firm.

This case has been called for review by the NAC, and the sanctions are not in effect pending consideration of the review. **(NASD Case #C9A000027)**

**Paul John Hoeper (CRD #2318477, Registered Representative, Corona Del Mar, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Hoeper failed to respond to NASD requests for information.

Hoeper has appealed this action to the NAC, and the sanction is not in effect pending consideration of the appeal. **(NASD Case #C02000037)**

**Jack Harry Stein (CRD #1233359, Registered Representative, West Palm Beach, Florida)** was fined \$25,000 and suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that Stein made unsuitable recommendations to a public customer.

Stein has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(NASD Case #C07000003)**

### **Complaints Filed**

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents

the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**James J. Black, Jr. (CRD #1487059, Registered Representative, Germantown, Tennessee)** was named as a respondent in an NASD complaint alleging that he received \$57,839.70 in funds from a public customer, deposited the funds into an account he controlled, and converted the funds to his own use and benefit without the customer's knowledge or consent. The complaint also alleges that Black failed to respond to an NASD request to provide on-the-record testimony. **(NASD Case #C05010024)**

**Patrick James Boyce (CRD #2388578, Registered Principal, East Setauket, New York)** was named as a respondent in an NASD complaint alleging that he directly and/or indirectly, singly and in concert, by use of the means or instrumentalities of interstate commerce, or of the mails, and in connection with the purchase and sale of securities, knowingly or recklessly engaged in, and/or induced others to engage in a device, scheme, or artifice to defraud, the use of an untrue statement of material fact and/or the omission of material facts necessary to make statements made, in light of the circumstances, not misleading, and acts, practices, or courses of business that operated as a fraud or deceit upon persons. The complaint also alleges that Boyce

executed unauthorized trades in the accounts of public customers without the discretionary trading authority for the accounts. The complaint further alleges that Boyce made material omissions and misrepresentations and engaged in high-pressure sales tactics in attempting to solicit public customers to purchase stocks. In addition, the complaint alleges that Boyce effected transactions in and/or induced the purchase or sale of securities by means of manipulative, deceptive, and other fraudulent devices and contrivances. **(NASD Case #CAF010007)**

**Lee Edward Bridges (CRD #1509183, Registered Representative, McComb, Mississippi)** was named as a respondent in an NASD complaint alleging that he engaged in business activities outside the scope of his relationship with a member firm and failed to give prior written notice to his firm. The complaint also alleges that Bridges received \$1,000 from a public customer to open Individual Retirement Accounts (IRAs) on behalf of the customer's minor sisters, neglected to open the IRAs, and, instead, converted the funds to his own use and benefit, without the knowledge or consent of the customer. **(NASD Case #C05010021)**

**Dane Stephen Faber (CRD #1020637, Registered Principal, Sausalito, California), Grace Patricia Stoneham (CRD #1068378, Registered Representative, San Francisco, California) and Monty Reasor Myler (CRD #1922281, Registered Principal, Palm Beach Gardens, Florida)** were named as respondents in an NASD complaint alleging that they, by the use of instrumentalities of interstate commerce, or of the

mails, made material misrepresentations and omitted to state material facts about a company; effected transactions in, or induced the purchase or sale of, a security by means of a manipulative, deceptive, or fraudulent device; and failed to observe high standards of commercial honor and just and equitable principles of trade. The complaint alleges that each of the respondents solicited indications of interest for a common stock by falsely representing that the company would be selling the stock through an IPO, failed to conduct an adequate inquiry into the company before recommending purchase of the security to public customers, and recklessly disregarded publicly available information that indicated the shares were not being offered through an IPO. The complaint also alleges that the respondents made baseless and improper price predictions and assurances of success about the stock. The complaint further alleges that Faber made unsuitable recommendations to a public customer and made unsuitable transactions in her account in light of her investment objectives, financial situation, and needs. In addition, the complaint alleges that Myler failed to pay an NASD arbitration award. **(NASD Case #CAF010009)**

**Mitchell Louis Goldberg (CRD #1386682, Registered Principal, Syosset, New York)** was named as a respondent in an NASD complaint alleging that, in connection with the purchase or sale of a security, he intentionally, knowingly, or recklessly employed a device, scheme, contrivance, and artifice to defraud; omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;

and engaged in acts, practices, or courses of business that operated as a fraud or deceit upon a public customer. The complaint also alleges that Goldberg effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. In addition, the complaint alleges that, in an effort to induce the customer to ratify unauthorized transactions, Goldberg intentionally and/or recklessly made material, misleading, and false representations that were without a reasonable basis and failed to disclose to the customer material information. The complaint further alleges that Goldberg failed to execute the sell orders of public customers. Moreover, the complaint alleges that Goldberg failed to accurately record on the books and records of his member firm the residential address of a public customer, and circumvented Indiana Blue Sky laws by preparing a new account form for a customer using the home address of the customer's father in another state. **(NASD Case #C10010042)**

**Mohamed Imran Hussain (CRD #2287607, Registered Representative, Staten Island, New York)** was named as a respondent in an NASD complaint alleging that he guaranteed a customer against loss. **(NASD Case #C10010046)**

**Bruce William Rhodes (CRD #2690462, Registered Representative, Rochester, Illinois)** was named as a respondent in an NASD complaint alleging that he received \$795,500 from a public customer with instructions that the funds be used to purchase short-term investments. The complaint alleges that Rhodes failed to follow the customer's instructions by depositing \$692,176.17 of the

customer's funds in an account at his firm and purchasing long-term investments for the customer, and used \$103,323.83 for some purpose other than for the benefit of the customer. The complaint also alleges that Rhodes failed to respond to NASD requests for information. **(NASD Case #C8A010025)**

**Nathan James Smith (CRD #1946055, Registered Representative, Chatham, New Jersey)** was named as a respondent in an NASD complaint alleging that he failed to respond to NASD requests for information. The complaint also alleges that Smith improperly converted \$200,000 in funds received from public customer intended for investment purposes to his own use and benefit. **(NASD Case #C9B010019)**

**Guy Anthony Zarrilli (CRD #2194074, Registered Principal, Point Pleasant, New Jersey)** was named as a respondent in an NASD complaint alleging that he made unsuitable recommendations to public customers. The complaint also alleges that Zarrilli lacked reasonable grounds to believe that his recommendations were suitable for the customers in light of their ages, need for income, the speculative nature of the transactions, and the size of the transactions in comparison to the value of the accounts. **(NASD Case #C9A010007)**

**Matthew Laurence Zimmerman (CRD #1800015, Registered Representative, Morris Plains, New Jersey)** was named as a respondent in an NASD complaint alleging that he engaged in unauthorized trading in the accounts of public customers, made untrue statements of material facts, and omitted to

state material facts to customers causing them to lose almost \$55,000 in their accounts, while collecting over \$9,000 in commissions. The complaint also alleges that Zimmerman failed to respond to NASD requests to appear for on-the-record interviews. **(NASD Case #C9B010027)**

### **Firms Suspended For Failure To Supply Financial Information**

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**Beacon Trading, L.L.C.**  
San Jose, California  
(April 12, 2001)

**Bemos Investment Advisors, L.L.C.**  
Deerfield, Illinois  
(April 12, 2001)

**Bennett, Mullaney & Co., Inc.**  
Warren, Vermont  
(April 12, 2001)

**C.B. Hill & Associates, Inc.**  
Jacksonville, Florida  
(April 12, 2001)

**Crimson Securities LLC**  
New York, New York  
(April 12, 2001)

**Investor's Advocate, LLC**  
Grand Blanc, Michigan  
(April 12, 2001)

**Stellar Investments, Inc.**  
Tampa, Florida  
(April 12, 2001)

**UFI Securities, Inc.**  
Dublin, California  
(April 12, 2001)

**Weston Capital Markets, Inc.**  
New York, New York  
(April 12, 2001)

### **Firms Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement**

**Ashland Global Securities, LLC**  
New York, New York  
(March 27, 2001)

**Lloyd Wade Securities, Inc.**  
Dallas, Texas  
(April 2, 2001)

### **Individuals Whose Registrations Were Revoked For Failure To Pay Fines, Costs And/Or Provide Proof Of Restitution In Connection With Violations**

**Testino, Jr., Charles W.**  
Tucson, Arizona  
(April 11, 2001)

**Vahab, Ray**  
New York, New York  
(April 11, 2001)

### **Individuals Barred Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)**

**Crenshaw, Michael**  
Brooklyn, New York  
(April 16, 2001)

**Hawley, Matthew**  
Sleepy Hollow, New York  
(April 12, 2001)

### **Individuals Suspended Pursuant To NASD Rule 9540 Series For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)**

**Chapman, David R.**  
Kemblesville, Pennsylvania  
(April 10, 2001)

**Delia, Carl**  
Hicksville, New York  
(April 11, 2001)

**Friedman, Roy H.**  
Long Beach, California  
(March 26, 2001)

**Holliman, III, Joe L.**  
Austin, Texas  
(April 2, 2001)

**King, Larry Richard**  
Sacramento, California  
(March 21, 2001)

**Manzanares, Joseph L.**  
Denver, Colorado  
(April 16, 2001)

**Newton, Barry James**  
Long Beach, California  
(April 11, 2001)

**Quinn, John T.**  
Louisville, Kentucky  
(March 15, 2001)

**Rogers, Jason**  
Rosedale, New York  
(April 2, 2001)

**Valasquez, Reynaldo C.**  
Corpus Christi, Texas  
(March 22, 2001)

**Washington, Doris Payne**  
Glen Allen, Virginia  
(April 4, 2001)

### **Individuals Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement**

The date the registration was suspended is included after entry. If the individual has complied, the listing also includes the date the suspension was lifted.

#### **Bernstein, Andrew S.**

Merrick, New York  
(March 30, 2001)

#### **Burton, Gregory M.**

Locust Valley, New York  
(March 28, 2001 - April 16, 2001)

#### **Carroll, Jeffrey C.**

Highland Beach, Florida  
(March 22, 2001)

### **NASD Regulation Censures and Fines Stifel, Nicolaus & Company, and Two Individuals for the Unsuitable Sale of Class B Mutual Fund Shares**

NASD Regulation has censured and fined Stifel, Nicolaus & Company, Inc. of St. Louis, MO, and two individuals, Michael G. Grimes and his supervisor, William J. Lasko, for violating NASD rules in connection with the sale of Class B mutual fund shares. NASD Regulation found that between June 1996 and May 1998, Grimes made unsuitable sales totaling over \$7 million to 44 customers in Class B mutual fund shares, and that Lasko and the firm failed to supervise Grimes with respect to these unsuitable sales.

As part of a settlement with the NASD, Stifel has agreed to exchange the Class B shares sold to these customers for Class A shares at no charge. The cost of this restitution offer, should every

customer make the exchange, is approximately \$225,000, which will be paid jointly by Stifel and Grimes.

Mutual funds can be offered for sale to investors in different classes. In this case, the Class A shares incurred a front-end sales load, but had lower on-going expenses than Class B shares. Customers who purchased Class B shares did not pay a sales charge at the time of purchase, but may have paid a charge when they sold their shares, unless the held them for six years. B Shares also incurred higher on-going distribution expenses than Class A shares.

Over a two-year period, NASD Regulation found that Grimes engaged in a pattern of making unsuitable recommendations of Class B shares to customers. He recommended that each of 15 customers purchase over \$250,000 in Class B shares, when it would have been more cost-effective for those customers to purchase Class A shares. In fact, the fund had a maximum purchase limitation of \$250,000 in Class B shares. NASD Regulation found that recommendations to purchase over \$250,000 in Class B shares exceeded the maximum purchase limitation and were unsuitable in light of the amount sold, the sales and distribution charges incurred and because the customers could have purchased the A Shares with substantially lower sales charges. Stifel failed to supervise by not having a system in place to detect sales in excess of the maximum purchase limits on the funds it sold.

NASD Regulation found that Stifel and Grimes earned sales commissions of over \$290,000 or four percent of the purchase on

the sale of Class B shares. The sales commissions would have been less than half this amount had they sold Class A shares.

In another instance, NASD Regulation found that Grimes recommended to 29 customers that they liquidate another mutual fund and purchase, in the aggregate, over \$500,000 of Class B shares. Again, the customers were eligible to purchase Class A shares, the more cost-effective purchase at the time because of a temporary marketing promotion offered by the fund that eliminated a sales load at either the time of purchase or the time of sale. Stifel and Grimes earned \$21,000 on the sale of these Class B shares, and would not have earned any sales commission had they sold Class A shares.

As a result of the NASD disciplinary action, Grimes has been suspended for 30 days and will pay a fine of \$30,000. Lasko has been suspended for 10 days in a supervisory capacity, and has been fined, together with the firm, \$25,000. Stifel has agreed to pay a total fine of \$41,000, which includes the violations noted above. Both the firm and the two respondents have neither admitted nor denied the allegations, but have consented to the entry of findings pursuant to the settlement.

### **NASD Regulation Fines Banc One Capital Markets, Inc. \$1.8 Million For Net Capital, Customer Reserve, and Recordkeeping Violations**

NASD Regulation has censured and fined Banc One Capital Markets, Inc., \$1.8 million for inadequate net capital, insufficient customer reserves, and inaccurate books and records. Banc One, a

broker/dealer subsidiary of Bank One Corporation, a bank holding company, entered into a settlement with NASD Regulation in which the firm neither admitted nor denied the allegations.

NASD Regulation found that Banc One operated from February 1999 through August 1999 without a reliable accounting system. The violations occurred after a conversion of Banc One's computerized securities processing and accounting software in early 1999. The conversion caused numerous accounting entries to post incorrectly. As a result, account balances in the firm's general ledger did not match the underlying transaction data balances. Banc One was unable to reconcile these differences promptly, and by March 1999 the dollar amount of the differences exceeded \$1 billion. The total number of unreconciled items increased from 1,000 in April 1999 to over 4,000 by July 1999.

Banc One failed to treat the accounting differences properly when it prepared and reported its net capital and customer reserve computations. Instead of treating each difference on a gross basis, as is required, Banc One calculated its net capital and customer reserve using the aggregate net of all differences. The firm's improper accounting treatment of these differences caused Banc One to operate from February 1999 through August 1999 with net capital deficiencies ranging from \$520 million to \$1.27 billion, and customer reserve account deficiencies ranging from \$380 million to \$1.05 billion.

Although required to do so by federal securities laws, Banc One failed to promptly notify regulators that its books and records were unreliable. The firm also failed to give proper notice that it was conducting a securities business with inadequate net capital, and that its customer reserve account was deficient. Maintaining reliable records, adequate net capital and customer reserves are critical to investor confidence, protection and overall market integrity.

In resolving this matter and imposing these sanctions, NASD Regulation took into consideration Banc One's cooperation during the investigation, that the firm's reconciliation process showed customer accounts were not impacted, and the steps the firm took to restructure its operations. This case resulted from an investigation conducted by NASD Regulation's Chicago District Office.

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